

Permit Number:
Coverage Date:
Issuance Date:
Effective Date:
Expiration Date:

**CONCENTRATED ANIMAL FEEDING OPERATION (CAFO)
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
AND STATE WASTE DISCHARGE GENERAL PERMIT**

DRAFT

December 1, 2004

**State of Washington
Department of Ecology
Olympia, Washington 98504**

**In compliance with the provisions of
Chapter 90.48 and 90.64 Revised Code of Washington as amended
and
The Federal Water Pollution Control Act as amended
(The Clean Water Act)
Title 33 United States Code, Section 1251 et seq.**

Until this permit expires, is modified or revoked, permittees that have properly obtained coverage by this permit are authorized to discharge to waters of the State in accordance with the special and general conditions which follow.

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SPECIAL CONDITIONS**S1. EFFLUENT LIMITATIONS**

Beginning on the date that an individual facility is covered under this permit, the permittee is authorized to discharge only in accordance with the following conditions:

A. Surface Water Effluent Limitations

1. *For all concentrated animal feeding operations (CAFOs), except new source swine, poultry, and veal Large CAFOs:*
Discharge of manure, litter, or process wastewater into waters of the state from the production area is prohibited, except when the production area is designed, constructed, operated and maintained to contain all manure, litter, and process wastewater including the runoff and the direct precipitation from a 25-year, 24-hour rainfall event and precipitation causes an overflow of manure, litter, or process wastewater.
2. *For new source swine, poultry, and veal Large CAFOs:*
Discharge of manure, litter, or process wastewater into waters of the state from the production area is prohibited, except when the production area is designed, constructed, operated and maintained to contain all manure, litter, and process wastewater including the runoff and the direct precipitation from a 100-year, 24-hour rainfall event and precipitation causes an overflow of manure, litter, or process wastewater.

For CAFOs other than horse, sheep, and duck operations, discharge of manure, litter, or process wastewater into waters of the state from the production area is prohibited unless the CAFO complies with the permit requirements in S1.D and S4.A2a.

Discharges to waters of the state may not cause or contribute to a violation of the water quality standards in the receiving water. The CAFO must minimize all discharges to the extent possible.

Discharges to waters of the state due to upset or bypass are only authorized in accordance with applicable requirements in 40 CFR 122.41.

B. Ground Water Effluent Limitations

The permittee must only apply manure, litter, and process wastewater to lands as specified in its nutrient management plan.

Process wastewater discharges, including seepage from waste storage facilities, may not reduce existing ground water quality except in those instances where the

operator can demonstrate to the satisfaction of the Department, prior to a discharge, that:

1. An overriding consideration of the public interest will be served; and
2. All contaminants proposed for entry into said ground waters must be provided with all known, available, and reasonable methods of prevention, control and treatment prior to entry.

Discharges may not cause or contribute to a violation of the State Ground Water Quality Standards (Chapter 173-200 WAC).

Contaminant concentrations of chemicals and nutrients found in saturated soils that have been applied at agronomic rates for agricultural purposes are exempt from all requirements of Chapter 173-200 WAC, if those contaminants will not cause pollution of any ground waters below the root zone.

C. Transfer of Manure.

All CAFOs must comply with the following requirements relating to transfer of manure or process wastewater to other persons:

Prior to transferring manure, litter or process wastewater to other persons, all CAFOs must provide the recipient of the manure, litter or process wastewater with the most current nutrient analysis. The analysis provided must be consistent with the requirements of 40 CFR part 412. CAFOs must retain for five years the records of the date, recipient name and address, and approximate amount of manure, litter and process wastewater transferred to another person.

D. All CAFOs except horses, sheep, and duck operations must comply with the following requirements:

1. *Visual inspections.* There must be routine visual inspections of the CAFO production area. At a minimum, the following must be visually inspected:
 - a. Weekly inspections of all storm water diversion devices, runoff diversion structures, and devices channeling contaminated storm water to the wastewater and manure storage and containment structure;
 - b. Daily inspection of water lines, including drinking water or cooling water lines;
 - c. Weekly inspections of the manure, litter, and process wastewater impoundments; the inspection will note the level in liquid impoundments as indicated by the depth marker in S1.D2.
2. *Depth marker.* All open surface liquid impoundments must have a depth marker which clearly indicates the minimum capacity necessary to contain the runoff and direct precipitation of the 25-year, 24-hour rainfall event, or, in the case of new sources subject to the requirements in S1.A2, the runoff and direct precipitation from a 100-year, 24-hour rainfall event.
3. *Corrective actions.* Any deficiencies found as a result of these inspections must be corrected as soon as possible.

4. *Mortality handling.* Mortalities must not be disposed of in any liquid manure or process wastewater system, and must be handled in such a way as to prevent the discharge of pollutants to surface water, unless alternative technologies pursuant to §412.31(a)(2) and approved by the Department are designed to handle mortalities.
- E. CAFOs must take immediate action to stop and contain any unauthorized discharges. CAFOs must also clean up unauthorized discharges to the extent practical, minimize any adverse impacts to waters of the state, and correct the cause of the problem.

S2. PERMIT COVERAGE

A. Permit Required

1. All concentrated animal feeding operations (CAFOs), as defined in S2.D, are required to obtain coverage under this general permit.

B. General Permit Coverage

1. All CAFOs must submit a permit application form. See Appendix 1 for deadlines. Unless the Department notifies the applicant in writing to the contrary, coverage under this general permit will begin on the later of the following:
 - a. The thirty-first (31st) day after the Department receives the applicant's completed application for coverage,
 - b. The thirty-first (31st) day after the end of the thirty (30) day public comment period required by WAC 176-226-130(4), or
 - c. The effective date of the general permit.
2. This general permit does not cover activities or discharges covered by an individual National Pollutant Discharge Elimination System (NPDES) or state waste discharge permit until the individual permit has expired or been canceled. Any person conducting an activity covered by an individual permit that may be covered by this general permit may request coverage under this general permit.
3. Any CAFO covered by this general permit must, at all times, comply with all conditions of this permit.
4. This permit applies to the process wastewater collection, confinement, storage, handling, and application areas of the permitted facility, including transfer facilities and land application activities under the control of the permittee.

5. For new CAFOs, or for CAFOs for which an increase in volume of wastes or change in character of effluent is requested over that previously authorized, applications for coverage must also contain:
 - a. A certification by the applicant that the public notice requirements of WAC 173-226-130(5) have been met; and
 - b. A certification by the applicant that the applicable SEPA requirements under chapter 197-11 WAC have been met.

C. Individual Permit Coverage

The Department may require any CAFO to apply for and obtain an individual permit, or to apply for and obtain coverage under another more specific general permit (WAC 173-226-240(2)). Coverage under this general permit will be terminated on the effective date of an individual permit. Until the individual permit is issued and effective, permit coverage will continue under the general permit.

D. Definition of a “Concentrated animal feeding operation” (“CAFO”)

A CAFO is a lot or facility that is defined as a Large CAFO or Medium CAFO, or that is designated as a CAFO.

(1) **Large CAFO.**

A lot or facility is defined as a Large CAFO if it meets all of the following three conditions:

- (a) It has animals (other than aquatic animals) that have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period,
- (b) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility where animals are confined, and
- (c) It stables or confines as many as or more than the numbers of animals specified in any of the following categories:
 - (i) 700 mature dairy cows, whether milked or dry;
 - (ii) 1,000 veal calves;
 - (iii) 1,000 cattle other than mature dairy cows or veal calves.
Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;
 - (iv) 2,500 swine each weighing 55 pounds or more;
 - (v) 10,000 swine each weighing less than 55 pounds;
 - (vi) 500 horses;
 - (vii) 10,000 sheep or lambs;
 - (viii) 55,000 turkeys;
 - (ix) 30,000 laying hens or broilers, if the operation uses a liquid manure handling system;
 - (x) 125,000 chickens (other than laying hens), if the operation uses other than a liquid manure handling system;

- (xi) 82,000 laying hens, if the operation uses other than a liquid manure handling system;
- (xii) 30,000 ducks (if the operation uses other than a liquid manure handling system); or
- (xiii) 5,000 ducks (if the operation uses a liquid manure handling system).

(2) **Medium CAFO.**

A lot or facility is defined as a Medium CAFO if it meets all of the following four conditions:

- (a) It has animals (other than aquatic animals) that have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period,
- (b) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility where animals are confined,
- (c) It stables or confines the number of animals that falls within any of the following ranges:
 - (i) 200 to 699 mature dairy cows, whether milked or dry;
 - (ii) 300 to 999 veal calves;
 - (iii) 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;
 - (iv) 750 to 2,499 swine each weighing 55 pounds or more;
 - (v) 3,000 to 9,999 swine each weighing less than 55 pounds;
 - (vi) 150 to 499 horses;
 - (vii) 3,000 to 9,999 sheep or lambs;
 - (viii) 16,500 to 54,999 turkeys;
 - (ix) 9,000 to 29,999 laying hens or broilers, if the operation uses a liquid manure handling system;
 - (x) 37,500 to 124,999 chickens (other than laying hens), if the operation uses other than a liquid manure handling system;
 - (xi) 25,000 to 81,999 laying hens, if the operation uses other than a liquid manure handling system;
 - (xii) 10,000 to 29,999 ducks (if the operation uses other than a liquid manure handling system); or
 - (xiii) 1,500 to 4,999 ducks (if the operation uses a liquid manure handling system); and
- (d) Either one of the following conditions are met:
 - (i) Pollutants are discharged into waters of the state through a man-made ditch or other similar man-made device; or
 - (ii) Pollutants are discharged directly into waters of the state which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

(3) **Designated CAFOs.**

- (a) A lot or facility may be designated as a CAFO by the Department if:
 - (i) It has animals (other than aquatic animals) that have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period;
 - (ii) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility where animals are confined;
 - (iii) Either one of the following conditions are met:
 - (A) Pollutants are discharged into waters of the state through a man-made ditch or other similar man-made device or
 - (B) Pollutants are discharged directly into waters of the state which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation;
 - and**
 - (iv) It is determined to be a significant contributor of pollutants to waters of the state. A “Significant contributor of pollution” includes, but is not limited to, a facility directly discharging pollutants that causes or contributes to a violation of state Surface Water Quality Standards (Chapter 173-201A WAC), state Ground Water Quality Standards, (Chapter 173-200 WAC), or RCW 90.48 (Water Pollution Control).
- (b) In making this designation, the Department must consider the following factors:
 - (i) The size of the operation and the amount of wastes reaching waters of the state;
 - (ii) The location of the operation relative to waters of the state;
 - (iii) The means of conveyance of animal wastes and process waste waters into waters of the state;
 - (iv) The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes, manure and process waste waters into waters of the state; and
 - (v) Other relevant factors.
- (c) No operation may be designated under this paragraph unless the Department of Ecology or Washington State Department of Agriculture has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program.
- (4) Note: Two or more operations under common ownership are considered to be a single operation for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes.

E. Other Definitions

1. “Bypass” means the intentional diversion of waste streams from any portion of the collection, storage, or treatment facility. The applicable requirements of 40 CFR 122.41 apply.
2. “Department” means the state agency with Clean Water Act delegation for NPDES permits from the U.S. Environmental Protection Agency (EPA). As of the issuance date of this permit, the Washington State Department of Ecology is the delegated agency. In the future, the Washington State Department of Agriculture may be the delegated agency.
3. “Directly discharged” means a discharge of pollutants straight into waters of the state, or through a manmade ditch or similar manmade device into waters of the state.
4. “Ground water” and “Underground water” means water in a saturated zone or stratum beneath the surface of land or below a surface water body.
5. “Land application area” means land under the control of a CAFO owner or operator, whether it is owned, rented, or leased, to which manure, litter or process wastewater from the production area is or may be applied.
6. “Manure” is defined to include manure, bedding, compost and raw materials or other materials commingled with manure or set aside for disposal.
7. “Multi-year phosphorus application” means phosphorus applied to a field in excess of the crop needs for that year. In multi-year phosphorus applications, no additional manure, litter, or process wastewater is applied to the same land in subsequent years until the applied phosphorus has been removed from the field via harvest and crop removal.
8. “New Source” means a facility that began construction after April 14, 2003.
9. “Nutrient Management Plan” means a written plan containing the minimum elements for nutrient management planning required under state law and federal regulations (as described in S3) that has been approved and certified. “Certification” occurs when the nutrient management plan has been fully implemented.
 - For dairy CAFOs, the local conservation district, or other agency designated by the legislature, must approve and certify the nutrient management plan.
 - For non-dairy CAFOs, the Washington State Department of Agriculture, or other agency designated by the legislature, must approve and certify the nutrient management plan.
 - For all CAFOs, the producer must also certify the nutrient management plan.

10. “Process wastewater” means water directly or indirectly used in the operation of the CAFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other CAFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs or bedding.
11. “Production area” means that part of a CAFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions which separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.
12. “Setback” means a specified distance from surface waters or potential conduits to surface waters where manure, litter, and process wastewater may not be land applied. Examples of conduits to surface waters include but are not limited to: open tile line intake structures, sinkholes, and agricultural well heads.
13. “Upset” means an exceptional incident in which there is an unintentional and temporary noncompliance with technology based effluent limitations because of factors beyond the reasonable control of the CAFO. An upset does not include noncompliance to the extent caused by operational error, improperly designed storage or treatment facilities, inadequate storage or treatment facilities, lack of preventative maintenance, or careless or improper operation. The applicable requirements of 40 CFR 122.41 apply.
14. “Vegetated buffer” means a narrow, permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching surface waters.

15. “Waste storage facilities” means the physical system used for the isolation and retention of process wastewater at the operation until its ultimate utilization.
16. “Waters of the state” includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, wetlands, and all other surface waters and water courses within the jurisdiction of the state of Washington.
17. “25-year, 24-hour rainfall event” means a rainfall event with a probable recurrence interval of once in twenty-five years as defined by the National Weather Service in Technical Paper Number 40, “Rainfall Frequency Atlas of the United States”, May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom.
18. “100-year, 24-hour rainfall event” means a rainfall event with a probable recurrence interval of once in one-hundred years as defined by the National Weather Service in Technical Paper Number 40, “Rainfall Frequency Atlas of the United States”, May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom.

S3. NUTRIENT MANAGEMENT PLANS

A. *Nutrient Management Plan Elements.*

All operations covered under this permit must have a current nutrient management plan. The nutrient management plan must be adequate for the existing number of animals.

1. The nutrient management plan must conform to the United States Department of Agriculture Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG) or equivalent best management practices. Equivalent best management practices may be used by the CAFO if:
 - a. they result in equal or better protection of surface and ground water quality and
 - b. they are approved by the Washington State Department of Agriculture.

“Equivalent best management practices” means operational, source control, treatment, or innovative practices which result in equal or better protection of surface water and ground water than the NRCS FOTG. When determining if a best management practice results in equal or better protection of water quality, all available data on the practice should be considered.

2. *Requirements to develop and implement a nutrient management plan.* At a minimum, a nutrient management plan must include best management practices and procedures necessary to implement applicable effluent limitations and standards. Permitted CAFOs must have their nutrient management plans developed and implemented by December 31, 2006. (CAFOs with existing nutrient management plans must continue to follow those plans until a revised plan that meets the requirements of this permit is implemented.) CAFOs that seek to obtain coverage under a permit after December 31, 2006 must have a nutrient management plan developed and implemented upon the date of permit coverage. The nutrient management plan must, to the extent applicable:
 - a. Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;
 - b. Ensure proper management of mortalities (i.e., dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities;
 - c. Ensure that clean water is diverted, as appropriate, from the production area;
 - d. Prevent direct contact of confined animals with surface waters of the state;
 - e. Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants;
 - f. Identify appropriate site specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the state;
 - g. Identify protocols for appropriate testing of manure, litter, process wastewater, and soil;
 - h. Establish protocols to land apply manure, litter or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater;
 - i. Identify specific records that will be maintained to document the implementation and management of the minimum elements described in S4.A; and
 - j. Include the requirements relating to environmental monitoring described in S4.C (large CAFOs only).
3. All CAFOs (except horses, sheep, and duck operations) that land apply manure, litter, or process wastewater, must do so in accordance with the following practices.

- a. The CAFO must develop and implement a nutrient management plan that incorporates the requirements of S3.A3 based on a field-specific assessment of the potential for nitrogen and phosphorus transport from the field and that addresses the form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals, while minimizing nitrogen and phosphorus movement to surface waters.
- b. *Determination of application rates.* Application rates for manure, litter, and other process wastewater applied to land under the ownership or operational control of the CAFO must minimize phosphorus and nitrogen transport from the field to surface waters.
 - (i) The nutrient management plan must include a field-specific assessment of the potential for nitrogen and phosphorus transport from the field to surface waters, and address the form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals, while minimizing nitrogen and phosphorus movement to surface waters.
 - (ii) A CAFO has the flexibility to implement nutrient management practices to comply with the technical standards, including consideration of multi-year phosphorus application on fields that do not have a high potential for phosphorus runoff to surface water, phased implementation of phosphorus-based nutrient management, and other components, as determined appropriate by the best management practice of S3.A1.
- c. *Manure and soil sampling.* Manure must be analyzed a minimum of once annually for nitrogen and phosphorus content, and soil analyzed a minimum of once every five years for phosphorus content. The results of these analyses are to be used in determining application rates for manure, litter, and other process wastewater.
- d. *Inspect land application equipment for leaks.* The operator must periodically inspect equipment used for land application of manure, litter, or process wastewater.
- e. *Setback requirements.* Unless the CAFO exercises one of the compliance alternatives provided for in (e)(i) or (e)(ii) of this section, manure, litter, and process wastewater may not be applied closer than 100 feet to any down-gradient surface waters, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to surface waters.
 - (i) Vegetated buffer compliance alternative. As a compliance alternative, the CAFO may substitute the 100-foot setback with a 35-foot wide vegetated buffer where applications of manure, litter, or process wastewater are prohibited.
 - (ii) Alternative practices compliance alternative. As a compliance alternative, the CAFO may demonstrate that a setback or buffer is not necessary because implementation of

alternative conservation practices or field-specific conditions will provide pollutant reductions equivalent or better than the reductions that would be achieved by the 100-foot setback.

4. Dairies that are CAFOs must also meet the minimum elements for nutrient management planning established by the Washington Conservation Commission under RCW 90.64.026(2) or other agency designated by the legislature.

B. *Nutrient Management Plan Compliance*

Upon approval and certification of implementation of a nutrient management plan (see S2.E9), any operation covered by this general permit must, at all times, comply with all the terms and conditions of that nutrient management plan. The land application and/or discharge of any process wastewater more frequently than, at a concentration in excess of, or at times not specified in the nutrient management plan shall constitute a violation of the terms and conditions of this permit.

C. *Nutrient Management Plan Updates*

The CAFO must develop and implement an updated nutrient management plan if:

1. facility expansions or modifications, production increases, or process modifications, pursuant to Condition S6 of this permit, will (1) result in new or increased generation of animal wastes beyond the scope of the current nutrient management plan, or (2) violate the terms and conditions of this permit;
2. the CAFO reduces or changes the field areas specified in the nutrient management plan used for land application (if the CAFO just changes the field areas without reducing the overall net nutrient capacity of the land application area, the agencies defined in S2.E9 do not have to approve and certify the updated nutrient management plan); or
3. environmental monitoring shows that the quality of the ground water may be at risk (see S4.C). The updated nutrient management plan must ensure that the requirements of S1.B are met.

D. *Nutrient Management Plan Availability*

CAFOs will maintain their nutrient management plans on-site. If the Department has evidence of environmental impacts from a CAFO, the Department will request a current copy of the nutrient management plan from the CAFO. The CAFO must then submit its nutrient management plan to the Department within two weeks. If the CAFO believes a portion of the nutrient management plan contains confidential business information, the CAFO must notify the Department as described in RCW 43.21A.160. The Department then determines which part of the nutrient management plan is confidential business information according to RCW 43.21A.160.

S4. RECORD KEEPING, REPORTING, AND ENVIRONMENTAL MONITORING**A. Record Keeping.**

All CAFOs must create, maintain for five years, and make available to the Department of Ecology and the Washington State Department of Agriculture upon request, all records required by this permit.

1. For all CAFOs:
 - a. A copy of the CAFO's current site-specific nutrient management plan must be maintained on site and made available on site to the Department of Ecology and the Washington State Department of Agriculture upon request.
 - b. For any discharge, the following records are required:
 - (i) A description and cause of the discharge;
 - (ii) The period of discharge including exact dates, times and duration of discharge;
 - (iii) An estimate of discharge volume and quality of the water;
 - (iv) Name or location of receiving water; and
 - (v) Corrective steps taken if appropriate, to reduce, eliminate or prevent reoccurrence of the discharge.
2. The following records are required for all CAFOs except horses, sheep, and duck operations.
 - a. Production Area:
 - (i) Records documenting the inspections required under S1.D1 (medium CAFOs and designated CAFOs are exempt from this record keeping requirement);
 - (ii) Weekly records of the depth of the manure and process wastewater in the liquid impoundment as indicated by the depth marker under S1.D2;
 - (iii) Records documenting any actions taken to correct deficiencies required under S1.D3. Deficiencies not corrected within 30 days must be accompanied by an explanation of the factors preventing immediate correction;
 - (iv) Records of mortalities management and practices used by the CAFO to meet the requirements of S1.D4; and
 - (v) Records documenting the current design of any manure or litter storage structures, including volume for solids accumulation, design treatment volume, total design volume, and approximate number of days of storage capacity.
 - (vi) Records of the date, time, and estimated volume of any overflow.

- b. Land Application Area:
 - (i) Expected crop yields;
 - (ii) The date(s) manure, litter, or process waste water is applied to each field;
 - (iii) Weather conditions at time of application and for 24 hours prior to and following application;
 - (iv) Test methods used to sample and analyze manure, litter, process waste water, and soil;
 - (v) Results from manure, litter, process waste water, and soil sampling;
 - (vi) Explanation of the basis for determining manure application rates;
 - (vii) Calculations showing the total nitrogen and phosphorus to be applied to each field, including sources other than manure, litter, or process wastewater;
 - (viii) Total amount of nitrogen and phosphorus actually applied to each field, including documentation of calculations for the total amount applied;
 - (ix) The method used to apply the manure, litter, or process wastewater; and
 - (x) Date(s) of manure application equipment inspection.

B. Reporting

- 1. If any discharge to waters of the state occurs, or if a CAFO for any reason does not comply with any of the requirements of the permit, the CAFO must notify the Washington State Department of Agriculture's Livestock Nutrient Management Program within 24 hours of the discharge or noncompliance (the current phone number is (360) 902-1982). The CAFO must submit a written report within five (5) days to the Washington State Department of Agriculture.

For discharges not allowed by the effluent limitation (S1.A or S1.B), the following information must be submitted in the written report:

- a. A description and cause of the discharge;
 - b. The period of discharge including exact dates, times and duration of discharge;
 - c. An estimate of discharge volume and quality of the water;
 - d. Name or location of receiving water;
 - e. Description of the impact of the discharge on the receiving water (if available); and
 - f. Corrective steps taken if appropriate, to reduce, eliminate or prevent reoccurrence of the discharge.
- 2. CAFOs must report to the Washington State Department of Agriculture within 24 hours of becoming aware of any significant physical failure at any time of a waste retention structure required under this permit.

3. *Annual Reporting.* CAFOs must submit an annual report to the Washington State Department of Agriculture. Annual reports are due on December 15 of each year, starting on December 15, 2005. The annual report must include:
 - a. The number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);
 - b. Estimated amount of total manure, litter and process wastewater generated by the CAFO in the previous 12 months (tons/gallons);
 - c. Estimated amount of total manure, litter and process wastewater transferred to another person by the CAFO in the previous 12 months (tons/gallons);
 - d. Total number of acres for land application covered by the nutrient management plan;
 - e. Total number of acres under control of the CAFO that were used for land application of manure, litter and process wastewater in the previous 12 months;
 - f. Summary of all manure, litter and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume;
 - g. A statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved by a certified nutrient management planner; and
 - h. The results from the environmental monitoring described in S4.C (large CAFOs only);
4. The Washington State Department of Agriculture will forward copies of all reports to the Department of Ecology until the Washington State Department of Agriculture receives Clean Water Act delegation for NPDES permits from the EPA.

C. Environmental Monitoring:

1. Large CAFOs must use environmental monitoring to demonstrate if a nutrient management plan, and its implementation, is effectively treating nutrients in the soil of land application areas to protect ground water quality.
2. *Soil Monitoring for Large CAFOs*
 - a. The CAFO must develop a soil sampling and analysis plan using appropriate NRCS Conservation Practice Standards, Technical Notes and Guidance or Extension Publications (such as Post-harvest Soil Nitrate Testing, EM8832-E, and Monitoring Soil Nutrients

- Using a Management Unit Approach, PNW570-E). The sampling and analysis plan must be included in the nutrient management plan.
- b. The CAFO must collect soil samples of land application areas annually in the fall. The samples must be analyzed for nitrate-N concentrations. The CAFO must collect samples prior to heavy fall rains and at least 30 days after any manure applications as described in Post-harvest Soil Nitrate Testing.
 - c. Samples must be collected at approximately 1 foot depth for locations west of the crest of the Cascade Mountains and approximately 2 feet depth for locations east of the crest of the Cascade Mountains.
 - d. The CAFO must report sampling results annually (see S4.B3).
3. A Large CAFO may choose to use ground water monitoring, instead of soil monitoring, to show that it meets the standards of chapter 173-200 WAC.

S5. WASTE STORAGE FACILITIES

All new or expanded waste storage facilities constructed after the issuance date of this permit must be sited, designed and constructed consistent with NRCS conservation practice standard 313 for Washington titled “Waste Storage Facility.” New lagoon liners must also have “as-built” post construction documents signed and stamped by a licensed professional engineer, who made on-site construction inspections, verifying that liners were constructed as designed.

All waste storage facilities must be operated and maintained consistent with the nutrient management plan developed under S3 of this permit.

S6. PREVENTION OF SYSTEM OVERLOADING

The number of animals must not exceed the capacity of the waste storage facilities for the operation. Prior to increasing the number of animals over the maximum number identified in the existing nutrient management plan, the permittee must update its nutrient management plan consistent with S3 of this permit and update all system components identified as being in need of upgrading.

S7. TERMINATION OF COVERAGE

- A. A permitted CAFO does not need to seek continued permit coverage or reapply for a permit if:
1. The facility has ceased operation and
 2. The permittee has demonstrated to the satisfaction of the Department that there is no remaining potential for a discharge of manure, litter or associated process wastewater that was generated while the operation was a CAFO, other than agricultural stormwater from land application areas.
- B. A Medium CAFO or Designated CAFO may request that coverage under this general permit be terminated if it no longer meets the definition of a CAFO. The request must be submitted to the Department in writing and must be accompanied by the following:
1. A copy of the current nutrient management plan. If the CAFO believes a portion of the nutrient management plan contains confidential business information, the CAFO must notify the Department as described in RCW 43.21A.160. The Department then determines which part of the nutrient management plan is confidential business information according to RCW 43.21A.160.
 2. A signed statement (see G18) that (i) all facilities and best management practices have been installed and have been in operation for not less than 36 months, and (ii) that there has not been a violation of permit condition S1 for the past 36 consecutive months.

The Department will respond to the request for termination by reviewing the permit file and having a site inspection done. The Department will then determine if coverage under this general permit should be terminated.

GENERAL CONDITIONS**G1. Discharge Violations:**

All discharges, applications, and activities authorized by this general permit must be consistent with the terms and conditions of this permit. The application and/or discharge of any process wastewater more frequently than, or at a concentration in excess of that

authorized by this general permit shall constitute a violation of the terms and conditions of this general permit.

G2. Proper Operation and Maintenance:

The Permittee shall at all times properly operate and maintain all facilities and systems used for process wastewater collection, storage and utilization (and related devices) which are installed or used by the Permittee for pollution control.

G3. Maintaining Compliance if System Fails:

The Permittee, in order to maintain compliance with its permit, shall control all applications and discharges upon reduction, loss or failure of the waste storage or utilization facilities and equipment. This requirement also applies where the primary source of power is reduced, lost, or fails.

G4. Right of Entry:

The Permittee shall allow an authorized representative of the Department of Ecology or Washington State Department of Agriculture, upon the presentation of credentials and such other documents as may be required by law:

- a. To enter upon the property where a potential or actual discharge is located or where any records are kept under the terms and conditions of this permit;
- b. To have access to and copy at reasonable times any records that must be kept under the terms of the permit;
- c. To inspect at reasonable times any monitoring equipment or method of monitoring required in the permit;
- d. To inspect at reasonable times any collection, treatment, pollution management, or application areas or facilities; and
- e. To sample any waters of the state, areas of potential discharge, or discharge of pollutants.

G5. Reporting a Cause for Modification:

A Permittee who knows or has reason to believe that any activity has occurred or will occur which would constitute cause for modification or revocation under Condition G11 or 40 CFR 122.62 shall report such plans, or such information, to the Department so that a decision can be made on whether action to modify coverage or revoke coverage under this permit will be required. The Department may then require submission of a new application for coverage under this, or another general permit, or an application for an individual permit. Submission of a new application does not relieve the Permittee of the duty to comply with all the terms and conditions of the existing permit until the new application for coverage has been approved and corresponding permit has been issued.

G6. Payment of Fees:

The Permittee shall submit payment of fees associated with this permit as assessed by the Department. The Department may revoke this permit or take enforcement, collection, or other actions, if the permit fees established under Chapter 173-224 WAC are not paid.

G7. Other Requirements of 40 CFR:

All other requirements of 40 CFR Sections 122.41 and 122.42 are incorporated in this permit by reference.

G8. Compliance with Other Laws and Statutes:

Nothing in the permit shall be construed as excusing the Permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

G9. Additional Monitoring:

The Department of Ecology or Washington State Department of Agriculture may establish specific monitoring requirements in addition to those contained in this permit by administrative order¹ or permit modification to protect waters of the state.

G10. Duty to Reapply:

The permittee must reapply for permit renewal at least 180 days prior to the expiration date of this permit. An expired permit continues in force and effect until a new permit is issued or until the Department cancels it, but only those operations which have reapplied for coverage under this permit will continue to have permit coverage.

G11. Permit Coverage Revoked:

Pursuant with Chapter 43.21B RCW and Chapter 173-226 WAC, the Department may require any discharger authorized by this permit to apply for and obtain coverage under an individual permit or another more specific and appropriate general permit. Cases where revocation of coverage under this permit may be required include, but are not limited to, the following:

- A. Violation of any term or condition of this permit;
- B. Obtaining coverage under this permit by misrepresentation or failure to disclose fully all relevant facts;
- C. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;
- D. Failure or refusal of the Permittee to allow entry as required in RCW 90.48.090;
- E. A determination that the permitted activity endangers human health or the environment, or contributes to water quality standards violations;
- F. Nonpayment of permit fees or penalties assessed pursuant to RCW 90.48.465 and Chapter 173-224 WAC; or

¹ A determination to issue an Order to increase monitoring is an appealable action under RCW 43.21B.310.

- G. Failure of the Permittee to satisfy the public notice requirements of WAC 173-226-130(5), when applicable.

Permittees who have their coverage revoked for cause according to WAC 173-226-240 may request temporary coverage under this permit during the time an individual permit is being developed, provided the request is made within ninety (90) days from the time of revocation and is submitted along with a complete individual permit application form.

G12. General Permit Modification and Revocation

This permit may be modified, revoked and reissued, or terminated in accordance with the provisions of Chapter 173-226 WAC. Grounds for modification or revocation and reissuance include, but are not limited to, the following:

- A. When a change which occurs in the technology or practices for control or abatement of pollutants applicable to CAFOs;
- B. When effluent limitation guidelines or standards are promulgated pursuant to the Clean Water Act or Chapter 90.48 RCW, for CAFOs;
- C. When a water quality management plan containing requirements applicable to CAFOs is approved; or
- D. When information is obtained which indicates that cumulative effects on the environment from CAFOs covered under this permit are causing unacceptable pollution.

G13. Toxic Pollutants

The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

G14. Requests to be Excluded from Coverage Under a General Permit

Any discharger authorized by this permit may request to be excluded from coverage under the CAFO general permit by applying for an individual permit. The discharger shall submit to the Department an application as described in WAC 173-220-040 or WAC 173-216-070, whichever is applicable, with reasons supporting the request. These reasons must fully document how an individual permit will apply to the applicant in a way that the general permit cannot. The Department may make specific requests for information to support the request. The Department shall either issue an individual permit or deny the request with a statement explaining the reason for the denial. When an individual permit is issued to a discharger otherwise subject to the CAFO general permit, the applicability of the general permit to that Permittee is automatically terminated on the effective date of the individual permit.

G15. Change of Ownership or Control:

The permittee shall notify the Department in writing at least 30 days prior to a change in facility ownership or a change in the lessee control (see condition G16).

G16. Permit Transfer

Coverage under this permit is automatically transferred to a new owner or operator if:

- A. The type of activities and practices are substantially unchanged;
- B. A written agreement between the old and new owner or operator containing a specific date for transfer of permit responsibility, coverage, and liability is submitted to the Department;
- C. A copy of this permit is provided to the new owner or operator; and
- D. The Department does not notify the Permittee of the need to submit a new application for coverage under the general permit or for an individual permit pursuant to Chapters 173-216, 173-220, and 173-226 WAC.

Unless this permit is automatically transferred according to section A. above, this permit may be transferred only if it is modified to identify the new Permittee and to incorporate such other requirements as determined necessary by the Department.

G17. Penalties for Violating Permit Conditions

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars and costs of prosecution, or by imprisonment in the discretion of the court. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct violation.

G18. Signatory Requirements

All applications, reports, or information submitted to the Department of Ecology or Washington State Department of Agriculture shall be signed and certified.

- A. In the case of a corporation, partnership, or sole proprietorship, all permit applications shall be signed by either a principal executive officer of at least the level of vice president of a corporation, a general partner of a partnership, or the proprietor of a sole proprietorship.
- B. All reports required by this permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - 1. The authorization is made in writing by a person described above and submitted to the Department.
 - 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for

environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

- C. Changes to authorization. If an authorization under paragraph B.2 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph B.2 above must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
- D. Certification. Any person signing a document under this section shall make the following certification:

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

G19. Appeals

The terms and conditions of this general permit are subject to appeal. There are two different appeal categories.

- A. The permit terms and conditions as they apply to the appropriate class of dischargers are subject to appeal within thirty (30) days of issuance of this general permit in accordance with Chapter 43.21(B) RCW and Chapter 173-226 WAC; and
- B. The applicability of the permit terms and conditions to an individual discharger are subject to appeal in accordance with Chapter 43.21(B) RCW within thirty (30) days of the effective date of coverage of that discharger.

Consideration of an appeal of this general permit coverage of an individual discharger is limited to the applicability or non-applicability of this general permit to that same discharger. Appeal of this permit coverage of an individual discharger will not affect any other individual dischargers. If the terms and conditions of this general permit are found to be inapplicable to any discharger(s), the matter shall be remanded to the Department for consideration of issuance of an individual permit or permits.

G20. Severability

The provisions of this permit are severable, and if any provision of this general permit or application of any provision of this general permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this general permit, shall not be affected thereby.

Appendix 1

Deadlines for Applications

CAFO status	Time frame to seek coverage under an NPDES permit	Examples
Operations defined as CAFOs in 40 CFR 122 prior to April 14, 2003.	180 days prior to expiration of the current permit.	Operations that previously met the definition of a CAFO and were not entitled to the 25- year, 24-hour storm permit exemption.
Operations defined as CAFOs in 40 CFR 122 as of April 14, 2003, and that were not defined as CAFOs prior to that date (e.g. existing operations that become defined as a CAFO as a result of changes in this rule).	April 13, 2006.	For example, “dry” chicken operations (operations that did not use a liquid manure handling or continuous overflow watering system), stand-alone immature swine, heifer and calf operations, and those operations that were entitled to the permitting exemption for discharging only in the event of a 25-year, 24-hour storm.
Operations that become defined as CAFOs after April 14, 2003 (e.g. increase in number of animals), but which are not new sources.	As soon as possible but no later than 90 days after becoming defined as a CAFO, except that, if the operational change that causes the operation to be defined as a CAFO would not have caused it to be defined as a CAFO prior to April 14, 2003, the operation must apply no later than April 13, 2006 or 90 days after becoming defined as a CAFO, whichever is later.	For example, an operation that increases the number of animals in confinement to a level that would result in the operation becoming defined as a CAFO.
New sources	180 days prior to the time the CAFO commences operation.	For example, a new Large CAFO that commences construction after April 14, 2003.
Designated CAFOs	90 days after receiving notice of designation.	